

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 07-11210

v.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

TARY HOLCOMB,

Defendant,

_____ /

ORDER

- (1) DENYING DEFENDANT'S LATEST REQUEST FOR EXTENSION
OF TIME TO FILE OBJECTIONS TO MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION OF FEBRUARY 11, 2008;
(2) DENYING DEFENDANT'S REQUEST FOR TRANSCRIPTS
(3) DENYING DEFENDANT'S MOTION FOR RELIEF PURSUANT TO 28 USC § 2255**

On February 11, 2008, Magistrate Judge R. Steven Whalen issued a Report and Recommendation that the District Court deny Petitioner Tary Holcomb's 28 USC § 2255 Motion to Vacate, Set Aside or Correct Sentence. Thereafter Petitioner filed a Motion for Extension of Time beyond the 10 day limit to file objections to the R&R.

The Court extended the time for filing objections until May 1, 2008. Petitioner claims that the Court appointed Richard Korn, Esq. to represent him on the instant case. This claim is not correct. The Court has not appointed counsel for Petitioner for his § 2255 claims. The appointment order Petitioner mentions [Attachment I], dealt with the principal proceeding. Counsel's initial appointment order was late in coming and signing. To the extent that the Magistrate Judge issued an Order on February 11, 2008 revoking Appointment of Counsel for

Petitioner's Motion to Vacate Sentence, that Order is a nullity because counsel was not appointed for Petitioner in the §2255 matter.

Petitioner has requested that the Court provide transcripts to him at no charge. A §2255 Petitioner has no right to receive transcripts of prior proceedings. The Court in the exercise of its discretion, has concluded that there is no justifiable basis for the Court to provide the transcripts request by Petitioner in the instant case.

For the aforementioned reasons, the Court adopts the Magistrate Judge's Report and Recommendation Denying Petitioner's petition pursuant to 28 USC §2255.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: May 30, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on May 30, 2008.

s/Denise Goodine
Case Manager